

J. Daniel Holsenback (California State Bar Number 145640)
Christopher C. Taylor, Of Counsel (California State Bar Number 200156)
HOLSENBACK TAYLOR
625 Broadway, Suite 906
San Diego, California 92101
Telephone: (619) 269-4634
Telefacsimile: (619) 269-4635

Attorney for Defendant TierraNet, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

White Cap Construction Supply, Inc.,)	CASE NO. 07CV2064WQH (CAB)
)	
Plaintiff,)	EX PARTE APPLICATION TO
)	WITHDRAW ANSWER
vs.)	
)	
The Domain Name <i>oceanographical.com</i> , in)	
rem, TierraNet, Inc., Domain Name Registrar,)	
)	
Defendants.)	
)	
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Christopher C. Taylor declares:

1. I am an attorney at law, licensed to practice in this Court. I am over the age of 18 and make this declaration in support of Defendant TierraNet, Inc.'s ex parte application to withdraw / strike its Answer. I have personal knowledge of the facts stated in this declaration and could, and would, testify to them if called as a witness in this matter.

2. Plaintiff White Cap Construction Supply, Inc. filed this action on October 30, 2007, relating to its claim for “cybersquatting.” (15 U.S.C. § 1125(d).) In the Complaint, Plaintiff seeks to have the Court order the transfer of the domain name “whitecap.com” to Plaintiff. Defendant TierraNet, Inc. is the registrar of the domain name “whitecap.com.” Although Defendant TierraNet, Inc. is the *registrar*, non-party Todd Esrey is the individual who *registered* the domain name, allegedly violating Plaintiff White Cap Construction Supply, Inc.’s rights in the trademark “White

1 Cap.” In other words, Defendant TierraNet, Inc. was named as a defendant based on its status as
2 the *registrar*. In order to have this Court order the transfer of the domain name to Plaintiff White
3 Cap Construction Supply, Inc., Defendant TierraNet, Inc. was a necessary party.

4 3. Defendant TierraNet, Inc. filed an Answer to the Complaint on November 26, 2007.
5 In the Answer, Defendant TierraNet, Inc. stated: “upon Court order . . . Defendant will transfer the
6 domain name registration and ownership of the domain name whitecap.com to plaintiff.” (Answer
7 at ¶ 35.)

8 4. After filing the Answer, Plaintiff’s counsel and Defendant TierraNet, Inc.’s counsel
9 discussed resolving the case, based on the fact that Defendant TierraNet, Inc. did not object to the
10 transfer of the domain name, provided that it was ordered by the Court. Based on an Agreement
11 between Defendant TierraNet, Inc. and Plaintiff White Cap Construction Supply, Inc., Defendant
12 TierraNet, Inc. respectfully requests to withdraw its Answer to the Complaint, so that Plaintiff
13 White Cap Construction Supply, Inc. can obtain a judgment from this Court, ordering the transfer of
14 the domain name from Defendant TierraNet, Inc. to Plaintiff White Cap Construction Supply, Inc.

15 I declare under the penalty of perjury pursuant to the laws of the United States of America
16 that the foregoing is true and correct. Executed this 8th day of January 2008 at San Diego,
17 California.

18
19 s/ Christopher C. Taylor
20 Christopher C. Taylor
21 Email: chris@barhelpers.com
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Ex Parte Application to Withdraw Answer was this date served upon all counsel of record, by placing a copy of the same in the United States Mail, postage prepaid, and sent to their last known address as follows:

Michael D. Harris
Steven C. Sereboff
M. Kala Sarvaiya
SoCal IP Law Group, LLP
310 N. Westlake Boulevard, Suite 120
Westlake Village, CA 91362

Signed under the penalty of perjury pursuant to the laws of the United States and the State of California this 8th day of January 2008, at San Diego, California.

s/ Christopher C. Taylor
Christopher C. Taylor
Email: chris@barhelpers.com